

## Chapter Comm 115

### COMMUNITY-BASED ECONOMIC DEVELOPMENT PROGRAM

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**Note:** Chapter DOD 15 was renumbered chapter Comm 115 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

**Comm 115.01 Purpose.** The purpose of this chapter is to establish a procedure for the administration of community-based economic development grants by the department as provided by s. 560.14, Stats.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90.

**Comm 115.02 Definitions.** In this chapter:

(1) "Acquisition" means the execution of a mortgage or lease through which the applicant acquires the rights to the property that will be used as a business incubator.

(2) "Applicable median household income" has the meaning given in s. 560.14 (1) (a), Stats.

(2m) "Brownfields" has the meaning given in s. 560.60 (1v), Stats.

**Note:** Section 560.60 (1v), Stats., was repealed by 2007 Wis. Act 20.

(3) "Business incubator" has the meaning given in s. 560.14 (1) (b), Stats.

(4) "Cash match" means a cash contribution to an applicant's project.

(5) "Ceases operations" means the removal of all tenants from the business incubator, the cessation of shared services or managerial assistance by the business incubator and, the conversion of the business incubator to some other use by the recipient or the organization that operates the business incubator.

(6) "Community-based organization" has the meaning given in s. 560.14 (1) (c), Stats.

(7) "Department" means the department of commerce.

(8) "Economic development diversification plan" means a plan which has as its goal and objectives the creation or retention of private sector employment or investment in the area to which the plan applies.

(9) "Extreme financial hardship area" means an area to which any 3 of the following paragraphs apply:

(a) The unemployment rate in the area is at least 150% of the state average.

(b) At least 40% of the persons residing in the area are members of households that have household income levels at or below 80% of the applicable median household income.

(c) The assessed value of real property in the area in the most recent assessment is less than the assessed value of that property in the assessment 2 years before the most recent assessment.

(d) The project will be located in an area that has been designated as a development zone.

(f) In the 18 months immediately preceding the application, at least 5% of the members of the work force in a municipality where the area is located were permanently laid off by their employer.

(g) In the 3 years immediately preceding the application, the area has experienced an average unemployment rate of 20% or more.

(9m) "In-kind contributions" means staff time, supplies, materials and services contributed to the project. Time volunteered by a non-staff person or an unpaid board member shall be considered an in-kind contribution, but the rate of pay for this contribution may not be calculated at a rate higher than any of the staff people working on the project.

(10) "Job" means a position providing full-time equivalent employment for an individual for at least one year following the conclusion of a project funded under this chapter.

(11) "Local economic development project" means a project specific plan for an industrial park, downtown business district, or public infrastructure project focusing on water, sewer or transportation or a training program for local economic development professionals.

(12) "Municipality" has the meaning given in s. 560.14 (1) (f), Stats.

(13) "Plan" means a document that is adopted by resolution of the governing body of an area or a community-based organization and which documents input from area residents, identifies the economic development needs of the area, sets the goals, objectives and activities that address those needs and identifies the resources needed to implement the activities and attain the goals and objectives.

(14) "Small business" means a business which employs 100 or fewer persons.

(15) "Technically oriented business" has the meaning given in s. 560.90, Stats.

(16) "Technology-based incubator" has the meaning given in s. 560.14 (1) (h), Stats.

(17) "Tenant revolving loan fund" means a pool of dollars which is utilized by a business or technology based incubator to make small capital loans to tenant businesses that are not available from conventional lending institutions.

(18) "Unemployment rate" means the average unemployment rate for the distressed area which is proposed to be served by the grant or in which the incubator will be located during the 18 months immediately preceding the date of submission of the application.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; renum. (1) to (10) to be (2), (3), (6) to (13), and am. (9), cr. (1), (4) and (5), Register, November, 1991, No. 431, eff. 12-1-91; r. and recr. (8) and (9), renum. (11) to (13) to be (12), (14) and (18), cr. (11), (13), (15) to (17), Register, December, 1993, No. 456, eff. 1-1-94; cr. (2m) and (9m), am. (5), (9), (13) and (14), r. (9) (e), r. and recr. (15) and (16), Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.03 Business assistance grants.** (1) The department may make a grant to a community-based organization to conduct a local economic development project or to provide assistance to businesses or entrepreneurs.

(2) The maximum amount that may be granted for any local economic development or small business assistance project is the lesser of \$30,000 or 75% of the cost of the project.

(4) Grants to provide assistance to a specific small business planning a start-up or expansion project in the service area of the

community-based organization may be for one or more of the following direct management services:

- (a) Production of a feasibility study.
- (b) Production of a financial plan, a financial projection, or both.
- (c) Production of a business plan.
- (d) Assistance with the preparation of loan applications.
- (e) Assistance with the review of in-house operating procedures.
- (f) Entrepreneurship and management training.

(5) Grants to provide assistance for a local economic development project in the service area of a community-based organization may be for one or more of the following:

- (a) Development of a project-specific plan for an industrial park.
- (b) Development of a project-specific plan for a downtown business district.
- (c) Development of a project-specific plan for a public infrastructure project focusing on water, sewer or transportation.
- (d) Implementation of a training program for local economic development professionals.
- (e) Development or implementation of a plan which supports a local economic project.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; r. and recr. (4) (intro.), (5) and (6), cr. (7), Register, November, 1991, No. 431, eff. 12-1-91; am. (1), (2), (3) (a) and (d), (4) (intro.) and (c), Register, December, 1993, No. 456, eff. 1-1-94; r. and recr. (6), Register, May, 1994, No. 461, eff. 6-1-94; r. and recr. (3), r. (4), renum. (5) to (7) to be (4) to (6), cr. (5) (e), Register, April, 1996, No. 484, eff. 5-1-96; am. (2), r. (3) and (6), Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.035 Economic diversification planning grants.** (1) The department may make a grant to a community-based organization or a political subdivision to develop a plan to diversify its economy, attract new businesses and jobs and promote economic development.

(2) The maximum amount of a grant under this section is the lesser of \$30,000 or 75% of the cost of the project.

**History:** Cr. Register, December, 1993, No. 456, eff. 1-1-94; r. and recr. (3), r. (4), Register, April, 1996, No. 484, eff. 5-1-96; am. (1) and (2), r. (3), Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.04 Business incubator grants.** (1) The department may make a grant to a community-based organization for any of the following:

- (a) To fund the operation of an existing business incubator or existing technology based incubator.
- (b) To provide technical assistance in the process of starting a business or technology based incubator, including planning, engineering, architectural and legal services, and assistance in preparation of feasibility studies and business plans.
- (c) To start, expand or rehabilitate a business or technology based incubator. To qualify under this paragraph, neither construction nor acquisition may have occurred prior to the date of the grant award unless the building is owned by a nonprofit, nonstock corporation, and limited or no rehabilitation has taken place as of the date of the application and the nonprofit, nonstock corporation meets one of the following:
  - 1. Received the building as a donation.
  - 2. Is converting a building previously owned and utilized by or for other purposes.
  - 3. Purchased a vacant building at or below assessed value.
- (d) To create a revolving loan fund for tenants of a business or technology based incubator.

(2) The maximum grant under sub. (1) (a) is \$30,000 in any year. The maximum grant under sub. (1) (b) is \$10,000 in any year. The maximum grant under sub. (1) (c) is \$100,000 in any year and the maximum amount of such a grant that may be devoted to operating expenses is \$30,000. The maximum grant under sub. (1) (d)

is \$50,000 in any year. The department may not make grants under sub. (1) (a) to a particular business or technology based incubator in more than 5 years. Any particular business or technology based incubator may receive no more than 2 grants under sub. (1) (b), (c) or (d). A recipient of a grant under sub. (1) (c) may not receive a grant under sub. (1) (a) for the same business or technology based incubator in the same year.

(5) The department may not make a grant under this section unless the applicant has a written policy relating to how stable, maturing businesses in the incubator will establish themselves outside of the incubator within a reasonable period of time.

(6) (a) The department may make a grant under sub. (1) (b), (c) or (d), only if the applicant agrees to operate the incubator for at least 5 years following receipt of the grant. Should the incubator cease operations during the 5 year period, the department may require repayment as follows:

- 1. If the incubator ceases operations during the first year, the department may require repayment of up to 100% of grant funds received.
- 2. If the incubator ceases operations during the second year, the department may require repayment of up to 80% of grant funds received.
- 3. If the incubator ceases operations during the third year, the department may require repayment of up to 60% of grant funds received.
- 4. If the incubator ceases operations during the fourth year, the department may require repayment of up to 40% of grant funds received.
- 5. If the incubator ceases operations during the fifth year, the department may require repayment of up to 20% of grant funds received.

(b) If the incubator is sold during the 5 years following receipt of a grant under sub. (1) (b) or (c), the applicant shall pay to the department the lesser of that part of the sale price which exceeds the original acquisition cost or the grant amount. If the incubator is sold during the 5 years following receipt of a grant under sub. (1) (d), the applicant shall return to the department that part of the revolving loan fund that has not been loaned to tenants of the incubator plus any loan repayments made by tenant loan recipients including all future loan repayments when they are made.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (2), r. and recr. (6) (intro.), Register, November, 1991, No. 431, eff. 12-1-91; am. (1), (3), (4) (intro.), (a), (c), (d), (f), (h), (5), (6) (intro.), (c) to (i), (8), cr. (4) (q) to (x), (6) (l) to (s), Register, December, 1993, No. 456, eff. 1-1-94; am. (8) (b), Register, May, 1994, No. 461, eff. 6-1-94; renum. (3) to be (2), cr. (3), r. (4), (6) and (9), renum. (7) and (8) to be (4) and (6), Register, April, 1996, No. 484, eff. 5-1-96; am. (1) (c), (6) (a) 1., to 5., r. (3) and (4), Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.043 Community-based revolving loan fund grants.** (1) The department may make a grant to a community-based organization to establish a revolving loan fund to make loans to small businesses in its service area

(2) The maximum amount that may be granted for a local revolving loan fund project is \$50,000 to an organization in one year. The applicant must provide a cash match of not less than 50% of the total cost of the project.

(3) The community-based organization may provide a loan to a business of not more than 60% of the total project cost.

(4) Before awarding a grant under this section, the department shall consider all of the following:

- (a) The experience of the community-based organization in underwriting and servicing loans.
- (b) The experience of the community-based organization in conducting economic development activities.
- (c) The extent of the representation of the financial and business communities on the loan review board of the community-based organization.
- (d) The effectiveness of the revolving loan fund operating procedures manual of the community-based organization.

(e) The experience of the community-based organization in working with small businesses.

(f) The need for a small business revolving loan fund in the service area of the community-based organization

(g) The likelihood the loans will be made available to businesses located in a development zone, development opportunity zone, or main street business center.

(h) The types of activities for which the revolving loan funds will be used.

**History:** Cr. Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.045 Regional economic development grants.** (1) The department may make a grant under this section to a community-based economic development organization for regional economic development activity if all of the provisions of s. 560.14 (4) (a), Stats., apply.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(b) The prospects for new investment and economic development in the region that may result from the proposed regional economic development activity for which funding has been requested under this section.

(c) The amount of investment that is likely to result from the economic development activity.

(d) The likely impact of the economic development activity on the economy of the region.

(e) The likelihood that one or more businesses will relocate outside the region if the economic development activity does not occur.

(f) The size of the region affected by the economic development activity.

(g) The likelihood that the economic development activity will enhance other economic development efforts, complement an existing development zone, development opportunity zone or enterprise development zone project, or build upon other economic development activities in the region.

(h) The likelihood that the economic development activity will result in increased spending in the region by persons who reside outside the region.

(3) An application for a grant under this section shall be in such form as the department may require and shall include information relevant to the criteria in subs. (1) and (2).

**History:** Emerg. cr. eff. 11-27-95; cr. Register, April, 1996, No. 484, eff. 5-1-96; r. (2) (a), Register, December, 1998, No. 516, eff. 1-1-99.

#### **Comm 115.046 Entrepreneurship teaching grant.**

(1) The department may make a grant under this section to a private, nonprofit foundation for an entrepreneurship training project for economically disadvantaged or socially at-risk children.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The extent to which the applicant will be partnering with an educational institution in the design and implementation of the project.

(b) The extent to which the applicant will be collaborating with area businesses in obtaining financial and operational support for the project.

(c) The extent to which the project will provide real-life experiences for the children.

(d) The extent to which the project will include placement and follow-up activities.

(e) The experience of the applicant in working with economically disadvantaged or socially at-risk children.

**History:** Cr. Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.048 Venture capital development conference.** (1) The department may make a grant under this sec-

tion to a community-based organization or private nonprofit organization for a venture capital development conference.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The criteria in s. 560.14 (4m) (a) 1. to 3. and 5., Stats.

(b) The applicant's access to capital markets.

(c) The experience of the applicant in linking investors with emerging businesses.

(d) The experience of the applicant in providing business plan assistance.

(e) The size of the area in which the project will be located.

(f) The level of on-going assistance that will be provided to the entrepreneurs.

**History:** Cr. Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.05 Grant considerations.** (1) Before making a determination under s. Comm 115.03, 115.035, 115.04, 115.043, 115.045, or 115.046, the department shall consider all of the following:

(a) The level of economic distress in the area, as measured by the following factors:

1. The unemployment rate in the area.

2. The percentage of persons in the area with low to moderate income.

4. The number of persons in the area permanently laid off because of a major business closing subject to s. 109.07, Stats.

5. The extent to which the property values in the area are declining.

6. The extent to which the population in the area is declining.

(b) The need and demand for the project.

(c) The need for state financial assistance.

(d) The qualifications of the persons who will be managing and operating the project.

(e) The level of community support, including financial support, for the project.

(f) The viability of the project.

(g) The likelihood that the project will result in the creation or retention of jobs.

(h) The likelihood that the project will result in business development.

(i) Whether the project is located in or near an area that has been designated as a development zone under s. 560.71, Stats., a development opportunity zone under s. 560.795, Stats., or an enterprise development zone under s. 560.797, Stats.

(j) The quality and effectiveness of the performance of the applicant on previous grants awarded under this chapter.

(k) The extent of the participation of the municipality in the design and implementation of the project.

(2) In addition to the factors in sub. (1), before making a grant to a community-based organization under s. Comm 115.04, the department shall consider all of the following:

(a) The potential of the business incubator or technology-based incubator to help start businesses.

(b) The potential of the business incubator or technology-based incubator to provide employment opportunities.

(3) In addition to the factors in subs. (1) and (2), before making a grant to a community-based organization for a revolving loan fund under s. Comm 115.04 (1) (d), the department shall consider all of the following:

(a) The need and demand for a tenant revolving loan fund.

(b) Local bank support for and participation in the tenant revolving loan fund.

(c) The availability of local professionals to participate in tenant revolving loan fund activities.

(d) The operating plan for the tenant revolving loan fund.

(4) The department shall give priority under this chapter for projects related to brownfields redevelopment.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96; am. (1) (intro.), r. (1) (a) 3., cr. (1) (j), (k) and (4), Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.07 Application procedures.** (1) The department shall prepare application manuals for grants under this chapter which it may update as needed. The manuals shall contain the application procedures, requirements and instructions for funding under this chapter.

(2) The department shall hold annual competitions for grants under this chapter. The competition for grants under s. Comm 115.04 shall be divided into 4 categories for s. Comm 115.04 (1) (a), (b), (c) and (d) grant determinations.

(3) The department may make a grant under this chapter after examining the application and any other information it deems relevant if the application submitted by the applicant compares favorably to other applications received.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (2), Register, December, 1993, No. 456, eff. 1-1-94; emerg. am. eff. 11-27-95; renum. from DOD 15.06 and am. (1) and (2), cr. (3), Register, April, 1996, No. 484, eff. 5-1-96; am., Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.08 Contracts.** Successful applicants shall enter into a contract with the department for the purposes of imple-

menting the proposed grant. The contracts shall be signed by the secretary of the department and the person or persons authorized by the applicant to enter into the contract. The department may void a contract and seek a return of any funds released under the contract for failure by the applicant to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; renum. from DOD 15.07, Register, April, 1996, No. 484, eff. 5-1-96; am., Register, December, 1998, No. 516, eff. 1-1-99.

**Comm 115.09 Reporting and auditing.** Each successful applicant shall provide the department periodic reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of each contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant. The reimbursement documentation, audit and the program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

**History:** Cr. Register, May, 1990, No. 413, eff. 6-1-90; am., Register, November, 1991, No. 431, eff. 12-1-91; renum. from DOD 15.08, Register, April, 1996, No. 484, eff. 5-1-96; am., Register, December, 1998, No. 516, eff. 1-1-99.